

REMARKS

The following remarks are responsive to the Official Action mailed June 19, 2006.

In the official action, the Examiner rejects claims 1-11 under 35 USC § 112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. Specifically, the Examiner objects to the term "said second housing", as lacking an antecedent basis. In response to this rejection, Applicants have amended claim 1 to include the term "said second portion" as opposed to "said second house." This amendment rectifies the lack of prior antecedent basis as asserted by the Examiner.

Claims 1-35 are rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,817,094 to *Errico et al.* In response to this rejection, Applicants have amended claim 1 and claim 25 as well as cancelled 35. Newly amended independent claims 1 and 25 now include the additional recitation that the clamping means and locking member, respectively are disposed within the U-shaped opening of the connector. No new matter has been added to the present application as a result of these amendments. By positioning the clamping means or locking element within the U-shaped opening of the connector, the overall width of the connector/clamping means is reduced since the clamping means is positioned within the boundaries of the connector.

This is directly contrasted with *Errico* which clearly shows a locking nut that is disposed on the exterior of the connector. The edges of the locking nut extend outwardly beyond

the connector and not only add to the width of the device but also create sharp edges that may come in contact with bone and soft tissue once disposed within the human body.

In addition, another benefit of having the locking element or clamping means disposed within the U-shaped opening of the connector is that a smaller tool is required to translate the element downward as compared to that which is discussed in *Errico*. Since *Errico*'s locking element 85 must include a large orifice to receive the thread of the connector element within the orifice, a tool that rotates the locking element 85 must be able to grasp the exterior edges of the locking element in *Errico*. Such a tool further increases the space required to implant the *Errico* device because in order to rotate the locking nut, the tool is placed on the exterior surface of the locking nut. In contrast, the clamping means of the present invention may have a small recess disposed on one of its surfaces since it does not require an orifice to receive a portion of the connector. Applicants thus assert that claims 1 and 25 and well as their depending claims are patentably distinct over *Errico* and should be deemed allowed.

The *Errico* patent discloses a connector 200 for coupling a rod to a locking element such as a screw 120. In order to lock the two elements together, the screw is first placed within a locking collar 150. The locking collar 150 is received within an opening of the coupling element 200, until the locking collar 150 sits loosely in a socket 205 of the coupling element. A rod 250 is then placed into engagement with the top surface of the locking collar and as the rod 250 is translated downward by a locking element 185, the rod pushes the locking collar downward. Since the connecting element includes tapered side walls 209 within socket 205, as a locking collar

translates downward, it begins to compress as a result of the tapered side walls. This causes a slot 160 in the locking collar 150 to narrow. This inward compression causes the head 122 of the screw 120 to be crush locked into an inwardly curved surface 154 of the locking collar 150. Thus, *Errico* locks the screw into place by forcing the locking element to be compressed with tapered side walls.

In contrast, independent claim 12 of the present application includes the recitation that the connector includes an inwardly deformable portion. As a result of the locking member of the present application being translated downward, a force is exerted against a seat of the connector. This resultant force causes the deformable portion to inwardly deform. Thus, as included in claim 12, the structure of the connector includes an inwardly deformable portion that deforms inwardly as a result of pressure being applied against the seat of the connector. *Errico*, as discussed above, does not disclose this as *Errico* discloses tapered side walls disposed within the connector which cause the orifice holding the head of the screw to compress against the screw. There is no inward deformable portion in *Errico*'s connector. The Examiner cites column 9, lines 1-22 of *Errico* as disclosing such a recitation. However, a review of that text reveals exactly what Applicants are asserting. Specifically, the relevant text states "this downward translation causes the tapered side walls 209 of the socket 205 to compress against the locking collar 150, thereby causing the slot 166 to narrow. This radial inward compression causes the head 122 of the screw 120 to be crushed locked to the inwardly curved surface 154 of the locking collar 150." Thus, it is the tapered side walls which are part of the connector which cause the locking collar to compress. At no point does the tapered side walls inwardly deform and nor is it shown by

the Examiner how this would happen. The only pressure being placed against the tapered side walls is the downward pressure of the locking collar which would cause the tapered side walls to deform outwardly if in any direction, and the locking nut 154 in *Errico* doesn't have any impact on the lower portion of the connector in contrast to that which is included within the claims of the present application. Applicants thus asserts that independent claim 12 as well its dependent claims are patentably distinct over the cited art and should be deemed allowed.

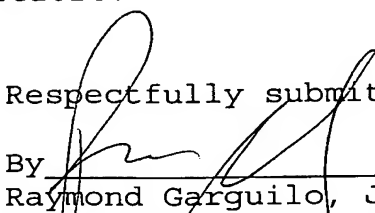
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefore.

Dated: October 10, 2006

Respectfully submitted,

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